

MINUTES OF THE ASSESSING STANDARDS BOARD

Approved as Amended

DATE: February 28, 2014

TIME: 9:30 a.m.

LOCATION: Department of Revenue, Training Room, 109 Pleasant Street Concord

BOARD MEMBERS:

Senator David Pierce ~ *Absent*
Representative Priscilla Lockwood
Len Gerzon, Public Member, Chairman
Robert J. Gagne, NHAAO, City, Vice-Chairman
Joseph Lessard, NHAAO, Towns >3,000 ~ *Absent*
Todd Haywood, NHAAO, Towns <3,000
Betsey Patten, Public Member
Vacant, Municipal Official, Towns >3,000

Senator Bette Lasky ~ *Absent*
Representative Peter Schmidt
Stephan Hamilton, NHDRA
Eric Stohl, Municipal Official, Towns <3,000
Marti Noel, NHAAO
Thomas Thomson, Public Member
Vacant, Municipal Official, City

MEMBERS of the PUBLIC:

David Cornell, NHDRA
Linda Kennedy, NHDRA
Jim Michaud, Hudson
Scott Bartlett, Goffstown

Scott Dickman, NHDRA
Cindy Brown, BTLA
Rosann Lentz, Portsmouth

Chairman Gerzon convened the meeting at 9:30 a.m.

Introductions

Minutes – January 31, 2014

Mr. Gagne ***motioned to accept the minutes of the January 31, 2014, regular board meeting.*** Mr. Haywood ***seconded the motion.*** Clarification was requested pertaining to the following statement by Selectman Stohl that was included in the January minutes, “*The intent is to remove the subjectivity from assessing and to allow anyone to understand the practice.*” Selectman Stohl stated while he understands there is subjectivity in assessing, to the extent possible; he would like to see the practice of assessing be as objective as possible. Mr. Thomson added that he agreed with Selectman Stohl that assessing should be, as much as possible, the facts rather than the subjectivity. No further discussion or changes. Chairman Gerzon called the motion to accept the minutes of the January 31, 2014, meeting as written. ***All approved.***

Mr. Haywood ***motioned to accept the minutes of the January 31, 2014, public forum.*** Selectman Stohl ***seconded the motion.*** Chairman Gerzon called the motion to accept the minutes of the public forum that took place on January 31, 2014. No further discussion. ***All approved.***

Legislative Update of HB 1110 – Sales Chasing

A hearing was held last week pertaining to HB 1110, at which a number of assessors spoke to amend or delay the implementation of the bill as written. Representative Lockwood reported time was granted for an amendment to be submitted to the committee by next Tuesday, March 4, 2014, at which time a vote will be taken.

The ASB has a statutory obligation to define the term “sales chasing” within statute. The argument presented by assessors was that the definition should be defined in the Asb rules within the certification and decertification process as other misconduct versus statute.

Proposed changes were submitted for the legislation and the Asb rules from Ms. Patten and Mr. Bartlett.

Ms. Patten proposed the following amendment to RSA 21-J:14-b, I:

~~[(d) The identification of practices which constitute sales chasing and penalties to be adopted by the legislature regarding such practices]~~

~~[(e)]~~(d) Any study conducted for the purposes of determining the status of assessing practices or the improvement of assessing in the state.

And RSA 21-J:14-b, I-a:

(a)(1)(D) ***The definition and practices which constitute sales chasing and penalties associated with knowingly committing or being party to sales chasing.***

Ms. Patten stated she feels that the definition of sales chasing should have its own subset as proposed in (D) above which allows the ASB the ability to define it and determine the penalties for it as well as giving the DRA the enforcement authority.

Mr. Bartlett stated that he and Mr. Michaud worked on a proposed legislative amendment to remove the statutory requirement of the ASB to define sales chasing within statute and presented proposed language to define it within the Asb rules. The intent was to keep this misconduct within the disciplinary procedure in the Asb rules rather than having it stand alone in statute. He added keeping it in statute would not provide the protection for assessors that the other misconduct within the rules provides. Mr. Bartlett stated he was in favor of using the amendment proposed by Ms. Patten as the structure provided the same intent as his proposal.

For clarification, a poll was taken to see where the conflict was, with the actual definition of the term “sales chasing” or its location in statute versus rules. Mr. Thomson abstained; all others agreed it should be defined within rules. Mr. Gagne ***motioned that member Patten’s recommendation be the amendment that Representative Lockwood presents to the legislative committee.*** Ms. Patten ***seconded the motion.*** Representative Lockwood clarified there will be two changes to the present law. We are going to remove the identification of practices telling you that the board has to define it under RSA 21-J:14-b, I (d), and adding a line under RSA 21-J:14-b, I-a, to read, “(D) *The definition and practices that constitute sales chasing and penalties associated with knowingly committing or being party to sales chasing.*” No further discussion. Chairman Gerzon called the motion. ***All approved.***

Sales Chasing Definition (for the Reference Manual)

Selectman Stohl stated the second portion of the statutory requirement, administrative rules which have the force of law, should be determined before the definition for the manual. There were two proposed changes submitted by Ms. Patten and Mr. Bartlett. There was question as to whether or not the rule could be completed prior to the legislative change being passed. A discussion took place pertaining to the intent of the manual and whether or not the definition of sales chasing within rules was necessary to publish. Chairman Gerzon stated the intent of the manual is to provide an informative and simplified reference for Selectman, Assessors and taxpayers to understand the general activities of assessing. The information contained in the manual is not meant to be technical. Mr. Hamilton added the definition was constructed by the subcommittee without specific references to statute or law in order to provide a general explanation of what the activity is. The examples were included as another tool to help illustrate what sales chasing might look like.

Ms. Noel recognized the individuals who assisted with the definition of sales chasing: Steve Hamilton, Scott Bartlett, Jim Michaud and George Hildum. The changes proposed were meant to bring into focus what the practice of sales chasing is, which is, “the practice of changing an individual property assessment to or near the recent selling price of that property with the intention of manipulating equalization ratio study results”, and to identify the reason it is being defined.

Section 4.2 - Sales Chasing *(proposed by the subcommittee 02/11/2014)*

Sales chasing is the practice of changing an individual property assessment to or near to the recent selling price of that property with the intention of manipulating equalization ratio study results.

Sales chasing may be accomplished by changing a subjective characteristic of a sale property while not considering corrections to that same characteristic on similar unsold properties. Subjective characteristics may include quality of construction, neighborhood factors, special site pricing, etc. Correcting erroneous data as described on the existing property record card is not sales chasing.

An example might be a 2-bedroom ranch that sold for \$150,000 with an assessment of \$100,000. The unjustified act of changing only that sale property's quality grade from fair to good might cause the assessment to increase to \$145,000, when a comparison to other unsold properties reveals that it is a fair quality grade property. Other similar 2-bedroom ranch properties may remain assessed around \$100,000, although they may be very similar to the property that sold.

When a single property assessment is changed in the direction of the sale price and that same change is not made to other similar unsold properties, the results may not accurately reflect the assessment level of the municipality.

When applied correctly, a ratio study is also used to measure levels of assessment to see if adjustments need to be made to improve assessment equity. If the ratio study results are accurate, the municipality's total equalized value will be accurate.

Selectman Stohl suggested using just the first paragraph for the manual definition and asked why the rest of the information was necessary. Mr. Hamilton stated the intent was not to just recite a law or rule but rather to provide language in the reference manual that would help a reader understand what sales chasing means. The subcommittee made an effort to explain that sales chasing is not just about making a mistake or is an unintentional act; it is about making an intentional change. Ms. Noel added the examples are exactly that, examples beyond the first paragraph that the subcommittee is proposing to simply help clarify how that might look to someone.

Selectman Stohl felt using that word "subjective" would cloud the issue for the lay person. Mr. Hamilton explained that unlike a characteristic that can be measured or counted and easily corrected, subjective estimates such as grade, condition and quality of construction are a necessary part of the assessing process. Ms. Noel added that when changing the value of an objective characteristic such as room count, an assessor will not look at the rest of the neighborhood or similar properties; so it is the subjective data that is the concern.

After more discussion, Chairman Gerzon asked for a motion to accept the proposed definition by subcommittee and from there it can be modified. Ms. Noel ***motioned to accept the definition of sales chasing as proposed by the subcommittee***. Selectman Stohl ***seconded the motion***. Selectman Stohl reiterated his concern with the word "subjective", which is based on feeling or opinion other than fact and that including this word would cause more appeals by taxpayers. After a brief discussion, Mr. Gagne ***motioned to amend the second paragraph to read:***

"Sales chasing may be accomplished by changing a characteristic of a sale property while not considering corrections to that same characteristic on similar unsold properties. Characteristics may include quality of construction, neighborhood factors, special site pricing, etc. Correcting erroneous data as described on the existing property record card is not sales chasing."

Mr. Hamilton ***seconded the motion***. Selectman Stohl stated he felt the word "subjective" was put in to protect the assessors and that including it provided the lay person a reason to file an abatement. He added he would not object to the definition if the word "subjective" was removed from the second paragraph.

Ms. Lentz responded that it is not only protecting assessors; it is also protecting towns from the cost that will be

associated when someone doesn't understand what sales chasing is. It is important to inform the taxpayers about what sales chasing is in order to minimize the amount of appeals the community will receive. It is not protecting assessors, it doesn't make our jobs go away; it is not going to make it any easier for us because we are going to have to explain changes in an assessment more because it is going to be out there for public view.

Ms. Brown added that the abatement process is available at the local level when a taxpayer does not agree with an assessment. Subjectivity is a part of assessing but it does not have to say it; it is a tough word for people to understand and in reality it has to happen.

Mr. Haywood stated that an assessment may not necessarily change in the direction of the sale price; in order to achieve a desired result the assessment could move away from the sale price. A brief discussion took place. For the purpose of this manual, it was agreed this distinction was unnecessary as both could manipulate the equalization ratio study.

Ms. Noel withdrew her motion to accept the definition as proposed by the subcommittee in order to discuss amendments. Selectman Stohl withdrew his second.

Mr. Gagne ***motioned to amend the second paragraph of the definition proposed by the subcommittee to read, "Sales chasing may be accomplished by changing characteristics of a sale property while not considering corrections to that same characteristic on similar unsold properties. Characteristics may include quality of construction, neighborhood factors, special site pricing and so forth. Correcting erroneous data as described on the existing property record card is not sales chasing."*** Mr. Hamilton ***seconded the motion***. No further discussion. Chairman Gerzon called the motion. ***All approved***.

Mr. Hamilton ***motioned to replace the existing definition of sales chasing in section 4.2 of the draft manual with the definition adopted above***. Selectman Stohl ***seconded the motion***. No further discussion. Chairman Gerzon called the motion. Representative Schmidt and Mr. Haywood abstained. ***All others approved***.

Ms. Noel ***motioned to approve the Assessing Reference Manual for publication with the revision of the sales chasing definition in section 4.2, as adopted***. Mr. Gagne ***seconded the motion***. Mr. Thomson encouraged that once the manual was ready for distribution on the website, that the DRA provide a news release that the manual has been updated and is ready to view. Chairman Gerzon called the motion. ***All approved***.

Annual Report

Mr. Gagne ***motioned to accept the annual report as written***. Mr. Haywood ***seconded the motion***. Chairman Gerzon called the motion. ***All approved***.

Next Meeting

March 28, 2014 at 9:30; location to be determined.

Other Business

Chairman Gerzon asked Mr. Hamilton when the department will be ready to update the board on annual findings. Mr. Hamilton responded the ratio study process is on-going and is near the end and ratio study results will be ready soon. 2013 Assessment Review results will be ready sometime following the next meeting.

Mr. Michaud indicated there was an informal discussion of the Rev 600 rules on Thursday, March 23, 2014. The rules have not been scheduled for JLCAR to date but wanted to know if the board wanted to discuss the progress.

Mr. Hamilton stated the rulemaking process for the Rev 600 rules has been an on-going process since last September. In most part, the rule changes pertain to the structure of BTLA ordered reassessments and general assessments. The rules were difficult to search for a particular activity and have been reorganized in order to search more easily depending on the type of activity such as a revaluation or cyclical update. We have also

updated the definitions to more closely follow the Asb definitions. There is a bit of conflict with the Asb rules. The law refers to people who make appraisals as appraisers; the Asb rules refer to those as assessors and the assessing community would prefer to focus on the term “assessors”. In order to resolve the conflict, a statutory change is necessary.

Equalization Manual

Tabled

Ms. Noel ***motioned to adjourn.*** Ms. Patten ***seconded the motion.***

Chairman Gerzon adjourned the meeting at 11:10 a.m.

Respectfully Submitted, Stephanie Derosier
NH Department of Revenue Administration – Municipal and Property Division

Documentation relative to the Assessing Standards Board may be submitted, requested or reviewed by: Telephone: (603) 230-5955

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